

REMARKS/ARGUMENT

I. STATUS OF THE PENDING CLAIMS

Upon entry of this response, claims 29-30, 32-51 and 53-54 are pending in the application.

Claims 29-30, 32-51 and 53-54 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over:

- claims 1-21 of U.S. Patent No. 6,981,226 (“the ‘226 patent”);
- claims 1-38 of U.S. Patent No. 7,000,191 (“the ‘191 patent”);
- claims 1-17 of Patent Publication No. 2002/0054098 (“the ‘098 publication”);
- claims 1-25 of Patent Publication No. 2002/0046397 (“the ‘397 publication”); and
- claims 1-32 of Patent Publication No. 2002/0054099 (“the ‘099 publication”).

However, the ‘098 publication and the ‘099 publication issued as the ‘226 patent and the ‘191 patent, respectively. Applicants also respectfully point out that the Examiner has mistakenly rejected the present application over the ‘397 publication, which is the application itself.

II. OBVIOUSNESS-TYPE DOUBLE PATENTING REJECTIONS

U.S. Patent No. 6,981,226

Claims 29-30, 32-51 and 53-54 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-21 of the ‘226 patent. Although Applicants do not acquiesce in the propriety of the rejection, Applicants are submitting a Terminal Disclaimer to overcome the rejection in view of the ‘226 patent in order to expedite prosecution. By filing this Terminal Disclaimer to obviate a rejection based on nonstatutory double patenting, Applicants do not admit the propriety of the rejection. See Quad Environmental Technologies Corp. v. Union Sanitary District, 946 F.2d 870 (Fed. Cir. 1991). Withdrawal of the rejection is therefore requested.

U.S. Patent No. 7,000,191

Claims 29-30, 32-51 and 53-54 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-38 of the '191 patent. Although Applicants do not acquiesce in the propriety of the rejection, Applicants are submitting a Terminal Disclaimer to overcome the rejection in view of the '191 patent in order to expedite prosecution. By filing this Terminal Disclaimer to obviate a rejection based on nonstatutory double patenting, Applicants do not admit the propriety of the rejection. See Quad. Withdrawal of the rejection is therefore requested.

Patent Publication No. 2002/0054098

Claims 29-30, 32-51 and 53-54 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-17 of the '098 publication. Applicants respectfully point out that the '098 publication issued as the '226 patent. Therefore, no Terminal Disclaimer is necessary, and withdrawal of the rejection is requested.

Patent Publication No. 2002/0046397

Claims 29-30, 32-51 and 53-54 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-25 of the '397 publication. Applicants respectfully point out that the '397 publication is the present application itself. Therefore, no Terminal Disclaimer is necessary, and withdrawal of the rejection is requested.

Patent Publication No. 2002/0054099

Claims 29-30, 32-51 and 53-54 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-32 of the '099 publication. Applicants respectfully point out that the '099 publication issued as the '191 patent. Therefore, no Terminal Disclaimer is necessary, and withdrawal of the rejection is requested.

CONCLUSION

Applicants submit that the claims, for the reasons set forth above, are in condition for allowance. Reconsideration and allowance are therefore respectfully requested. The Commissioner is authorized to charge any necessary fees to Deposit Account No. 23-1703.

Dated: April 30, 2007

Respectfully submitted,

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